

Exhibits # 1 - # 6

CASE No. 2:18-CV-158

Fred G. MARTINEZ

v.

NUECES COUNTY SHERIFF

TEXAS COMMISSION ON JAIL STANDARDS

EXECUTIVE DIRECTOR
Brandon S. Wood



P.O. Box 12985
Austin, Texas 78711
Voice: (512) 463-5505
Fax: (512) 463-3185
<http://www.tcjs.state.tx.us>
info@tcjs.state.tx.us

Exhibit # 1

January 24, 2017

Fred Martinez TDCJ # 2061834
C/O Connally Unit
899 FM 632
Kenedy, TX. 78119

Dear Mr. Martinez:

Your concerns regarding the Nueces County Jail have been reviewed by the inspector. After reviewing the allegations with the staff of the jail, it was determined that an area of concern did exist. In your letter you stated that you were held in holding for 18 days. Staff is reporting that you were booked on 5/23/2016 and transferred to housing on 5/26/2016 which is in excess of 48 hours. Upon notification, Nueces County Officials took immediate action to resolve the issues and a change to procedures was enacted. Thank you for bringing this to our attention.

Furthermore, staff is reporting that all inmates that are in holding receive sandwiches until they are transferred to a housing unit. Staff reported that you received a shower on 5/24/2016 and then had access to a shower 16 hours a day. Minimum jail standards requires that inmate each inmate shall be given the opportunity to shower at least every other day or more often if possible. As for not being allowed proper hygiene, staff report that it is standard policy that inmates are issued hygiene supplies when they are transferred to the proper housing unit.

Please be advised the Texas Commission on Jail Standards has regulatory authority over county and privately operated jails that house county and out of state inmates. Our commission regulates jails to insure that they are in compliance with minimum standards. The issue that you addressed in your letter being transferred to TDCJ within 72 hours does not fall under our purview. I recommend that you direct your concerns to the sheriff or jail administrator.

While this investigation will be closed, this agency will continue to monitor the Nueces County Jail to ensure compliance with minimum jail standards.

Best regards,

Jackie Semmler

Jackie Semmler
Inspector

[Handwritten signature]

Judge Bill Stoudt, Longview, Chair
Jerry W. Lowry, New Caney, Vice Chair
Irene A. Armendariz, Austin

Sheriff Dennis D. Wilson, Groesbeck
Sheriff Kelly Rowe, Lubbock

Larry S. May, Sweetwater
Allan D. Cain, Carthage
Dr. Esmail Porsa, M.D., Parker

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Exhibit #2 p. 1

February 9, 2017

Fred G. Martinez #2061834
899 FM 632
Kenedy, Texas 78119

Dear Mr. Martinez:

Your concerns regarding the Nueces County Jail have been reviewed by the assistant director. After reviewing the allegations with the staff of the Nueces County Jail and Inspector Jackie Benningfield, it was determined that no violation of jail standards has occurred.

Mr. Martinez, records reveal the following:

DEFENDANT #6 ?

- 16-Mar-23 @ 1652 Hrs. You were booked into the Nueces County Jail
- 16-Mar-25 @ 1349 Hrs. You were transferred to Unit 4R from holding pending protective custody housing due to charge [REDACTED]
- 16-Mar-26 @ 2043 Hrs. You were transferred to holding from Unit 4R due to conflicts with cellmate
- 16-Mar-26 @ 2240 Hrs. You were returned to Unit 4R.
- 16-Mar-27 @ 0157 Hrs. You were transferred to holding from Unit 4R after you stated that you feared for your safety.
- 16-Apr-01 @ 1345 Hrs. You refused transfer to Unit 4R; remained in holding.
- 16-Apr-05 @ 1352 Hrs. You were transferred to Unit 4R from holding.
- 16-Apr-05 @ 1836 Hrs. You were transferred to holding from Unit 4R due to making suicidal statements and placed on watch.
- 16-Apr-06 @ 1521 Hrs. You were transferred to Unit 4R after released from watch in holding.
- 16-Apr-11 @ 1209 Hrs. You were transferred to Unit 4H from Unit 4R – protective custody housing.
- 16-May-05 @ 1538 Hrs. You were transferred to Unit DSA (McKinzie Annex) from Unit 4H – protective custody housing.
- 16-May-09 @ 0156 Hrs. You were transferred to holding from Unit DSA pending release to TDCJ-ID.
- 16-May-09 @ 0916 Hrs. You were released to TDCJ-ID. ← (Court Order violation)

SEE: Exhibit #4

Judge Bill Stoudt, Longview, Chair
Jerry W. Lowry, New Caney, Vice Chair
Irene A. Armendariz, Austin

Sheriff Dennis D. Wilson, Groesbeck
Sheriff Kelly Rowe, Lubbock

Larry S. May, Sweetwater
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Exhibit #2 p. 2

Cpt. Martin Arnold advises and TCJS records indicate that Nueces Co. Jail was granted a variance to double bunk 96 single cells. This action was approved by our nine member Commission in 2008. Cpt. Arnold also advises that per Nueces Co. Jail policy, bedding and hygiene items are NOT allowed in the holding or detoxification cells unless approved by the medical staff. Inmates in holding are provide a shower every other day as outlined in minimum jail standards.

This is your final appeal. We will be taking no further action and have closed this case. While this investigation will be closed, this agency will continue to monitor the Nueces County Jail to ensure compliance with minimum jail standards.

Sincerely,

Shannon J. Herklotz

Shannon J. Herklotz
Assistant Director

[Handwritten signatures]

Judge Bill Stoudt, Longview, Chair
Jerry W. Lowry, New Caney, Vice Chair
Irene A. Armendariz, Austin

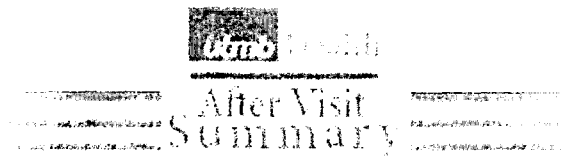
Sheriff Dennis D. Wilson, Groesbeck
Sheriff Kelly Rowe, Lubbock

Larry S. May, Sweetwater
Allan D. Cain, Carthage
Dr. Esmail Porsa, M.D., Parker

Exhibit # 3-p.1

University of Texas Medical Branch

301 University Boulevard, Galveston TX 77550

**Fred Martinez Jr.****Patient information**

Patient Name Fred Martinez Jr.	MRN 748017N	Sex Male	(age) 44 year old
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About your hospitalization

You were admitted on: April 3, 2018

You received care in: Clinical Sciences Wing TDCJ
Pre/Post Holding

You were discharged on: April 4, 2018

Why you were hospitalized

Your primary diagnosis was: Nasal Obstruction

Faculty attending providers for your hospitalization

Provider Underbrink, Michael P, MD	Specialty OTO-OTOLARYNGOLOGY
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Wound Care

WOUND CARE INSTRUCTIONS

Nasal saline QID. Do not blow nose until seen in clinic

Daily medication list**Take these medications**

	Last dose taken	Next dose due	Daily Schedule
acetaminophen-codeine 300-30 mg tablet Commonly known as: TYLENOL-CODEINE #3 Dose: 1 tablet Take 1 tablet by mouth every 4 (four) hours as needed for Pain (scale 4-6) or Pain (scale 7-10). Refills: 0			
cephALEXin 500 mg capsule Commonly known as: KEFLEX Dose: 500 mg Take 1 capsule by mouth 4 (four) times daily for 10 days. Refills: 0			
* DEEP SEA NASAL 0.65 % nasal spray Generic drug: sodium chloride Dose: 3 Spray Use 3 Sprays in each nostril 2 (two) times daily.X 11 MOS.HG Refills: 11			

Exhibit #3-p.2

Page 2 of 2

* sodium chloride 0.65 % nasal spray Commonly known as: SALINE NASAL Dose: 4 Spray Use 4 Sprays in each nostril 4 (four) times daily. Refills: 11			
flunisolide 25 mcg (0.025 %) nasal spray Commonly known as: NASALIDE Dose: 2 Spray Use 2 Sprays in each nostril every morning and evening.X 11 MOS.HG Refills: 11			

*** Notice: This list has 2 medication(s) that are the same as other medications prescribed for you. Read the directions carefully, and ask your doctor or other care provider to review them with you.**

Daily medication instructions

Based on the information you provided to us, as well as any changes during this hospitalization, the medication list above is your updated medication list. **Do not** take any other medications or supplements unless advised by your healthcare provider. Be sure to compare this list with your prescription bottles at home. If you have any questions or concerns, contact your primary care physician's office.

We encourage you to inform your provider during your clinic visit of any medications you may need refilled. If the need arises for a refill between office visits, please call your pharmacy first.

Other instructions for continuing care

The HG Plan of Care are recommendations provided to assist unit providers in continuing appropriate treatment for TDCJ inmates after discharge from HG. These recommendations are not meant to replace the clinical judgment of the unit provider or establish a standard of care. Recommendations made in the plan of care may not be appropriate for use in all circumstances within TDCJ.

Weight: Monitor your weight daily. Notify unit medical personnel for: a) weight gain (3 lbs/day or 5 lb/week), b) increased swelling to face, hands, feet, c) increased difficulty breathing.

For worsening symptoms/changing condition/problems or questions: Notify Unit Medical Personnel

Please take this After Visit Summary with you to any future appointments. It contains a list of your medications with any changes made during this visit. Remember to update your medication list when medications are discontinued, doses are changed, or new medications (including over-the-counter products) are added. It is important to carry an up to date medication list with you at all times in the event of an emergency.

Exhibit # 4

CAUSE NO. 14-CR-2389-B

THE STATE OF TEXAS

VS.

FRED MARTINEZ

*
*
*
*
*

IN THE DISTRICT COURT

117TH JUDICIAL DISTRICT

NUECES COUNTY, TEXAS

ORDER

BE IT REMEMBERED, that on the _____ day of _____, 2016,
came on to be considered the above and foregoing Motion for New Trial by Defendant. After
consideration of the same, it is the opinion of the Court that Defendant's Motion be:

() GRANTED.

() DENIED, to which ruling the Defendant excepts.

(✓) SET FOR HEARING ON THE 13th day of May,
2016, at 1:15 o'clock p.m

SIGNED and ENTERED this 25 day of April, 2016.


JUDGE PRESIDING

SCANNED

APR 26 2016

Exhibit #5

CAUSE NO. 14-CR-2389-B

THE STATE OF TEXAS VS. FRED MARTINEZ
IN THE 117TH DISTRICT COURT
NUECES COUNTY, TEXAS

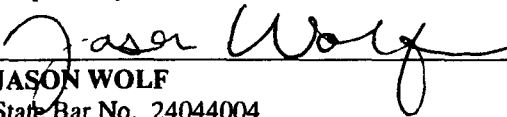
APPLICATION FOR BENCH WARRANT

TO THE HONORABLE JUDGE OF SAID COURT:

This is an Application to this Court for a Bench Warrant to be issued to the Sheriff of Nueces County, TX or his authorized agent. Please check one of the authorized agents, Nueces County Sheriff Department (), or Prisoner Transport Services () requiring him to obtain custody of

FRED MARTINEZ, D.O.B. 02/18/1974, T.D.C. NO. 02061834, SID NO. 10134172
now in the custody of the Texas Department of Criminal Justice located at the Garza West, located 4250 Highway 202; Beeville, TX 78102-8982, (361) 358-9890, and bring him before this Court on May 25, 2016 at 1:15 p.m., for further proceedings with the above numbered cause.

Respectfully Submitted,


JASON WOLF
State Bar No. 24044004

410 Peoples St.
Corpus Christi, TX 78401
Telephone: (361) 887-7600

**ATTORNEY FOR DEFENDANT,
FRED MARTINEZ**

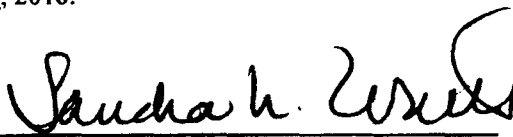
BENCH WARRANT

TO: The Sheriff of Nueces County, TX

The foregoing Application is granted.

It is, therefore, the Order of this Court that the Sheriff of Nueces County, TX, or his authorized agent listed above to obtain custody of **FRED MARTINEZ**, now in custody of the Department of Criminal Justice, and bring him before this Court on or about the above listed date and time, for further proceedings in connection with the above numbered cause.

SIGNED this 12 day of May, 2016.


JUDGE PRESIDING

ATTEST:

Ann Lorentzen, Clerk of the Court

By:

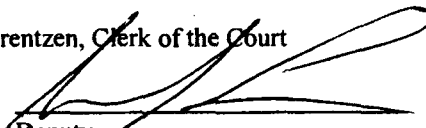

Deputy

Exhibit #6

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claim. If the affidavit is conclusory, is unsupported by facts, or fails to provide requisite notice of the basis for the relief claimed, no hearing is required." And I'm further going to cite to Jordan vs. State, also out of the Court of Criminal Appeals. It's

4883 S.W.2d 664, and in this case there was an affidavit

5from the defendant that did set out nine different

6allegations for ineffective assistance of counsel, but

7the Court concluded that the affidavit was conclusory in

8nature, and so therefore no hearing was actually

9required on the motion for new trial. And so we would

10first of all argue, Your Honor, that there is no

11affidavit that's actually attached to the motion for new

12trial, there is only the motion for new trial itself, 13which makes some accusations
14with regard to ineffective assistance of counsel.

15If the Court concludes that there is a

16sufficient affidavit to support the motion for new

17trial, then we would argue that everything in it is

18conclusory and unsupported by any facts. And,

19furthermore, Your Honor, that they are limited to what

20they put in the motion for new trial, that relief cannot

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